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Attorney for Plaintiff, Audry Ida Jane Fruean

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION**

Audry Ida Jane Fruean,

Plaintiff,

v.

Kilolo Kijakazi, Acting  
Commissioner of Social Security,

Defendant.

Case No. 1:21-cv-00406-SKO

**STIPULATION FOR THE AWARD  
AND PAYMENT OF ATTORNEY  
FEES AND EXPENSES PURSUANT  
TO THE EQUAL ACCESS TO  
JUSTICE ACT; ORDER**

(Doc. 24)

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of ONE THOUSAND ONE-HUNDRED NINETY-SIX DOLLARS and 94/100 (\$1,196.94) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. § 2412(d).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to

1 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability  
2 to honor the assignment will depend on whether the fees are subject to any offset  
3 allowed under the United States Department of the Treasury's Offset Program. After  
4 the order for EAJA fees is entered, the government will determine whether they are  
5 subject to any offset.

6 Fees shall be made payable to Plaintiff, but if the Department of the Treasury  
7 determines that Plaintiff does not owe a federal debt, then the government shall cause  
8 the payment of fees, expenses and costs to be made directly to Counsel, pursuant to  
9 the assignment executed by Plaintiff. Any payments made shall be delivered to  
10 Plaintiff's counsel, Jonathan O. Peña.

11 This stipulation constitutes a compromise settlement of Plaintiff's request for  
12 EAJA attorney fees, and does not constitute an admission of liability on the part of  
13 Defendant under the EAJA or otherwise. Payment of the agreed amount shall  
14 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or  
15 Counsel including Counsel's firm may have relating to EAJA attorney fees in  
16 connection with this action. Payment shall be made either by electronic funds transfer  
17 (ETF) or by check.

18 This award is without prejudice to the rights of Counsel and/or Counsel's firm  
19 to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the  
20 savings clause provisions of the EAJA.

21 Respectfully submitted,

22  
23 Dated: December 14, 2021

24 /s/ Jonathan O. Peña  
JONATHAN O. PEÑA  
Attorney for Plaintiff

25  
26 Dated: December 14, 2021

27 PHILLIP A. TALBERT  
Acting United States Attorney  
28 WILLY LE

Acting Regional Chief Counsel, Region X  
Social Security Administration

By: \* Justin Lane Martin

Justin Lane Martin

Special Assistant U.S. Attorney

Attorneys for Defendant

(\*Permission to use electronic signature  
obtained via email on December 14, 2021).

**ORDER**

Based upon the parties' Stipulation for the Award and Payment of Attorney Fees and Expenses Pursuant to the Equal Access to Justice Act (the "Stipulation") (Doc. 24), IT IS HEREBY ORDERED that fees and expenses in the amount of ONE THOUSAND ONE-HUNDRED NINETY-SIX DOLLARS and 94/100 (\$1,196.94) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: February 8, 2022

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE